

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA)	
)	Criminal No.: 3:00-CR-400-P
v.)	
)	Judge Jorge A. Solis
MARTIN NEWS AGENCY, INC.; and)	
BENNETT T. MARTIN,)	
)	FILED: June 22, 2001
Defendants.)	

UNITED STATES' REQUESTED
QUESTIONS FOR THE VENIRE AT VOIR DIRE

The United States of America, through its undersigned attorney, respectfully submits the following questions and requests that the Court raise them to the jury panel at voir dire.

1. The government requests that the Court read or summarize the Indictment to the jury panel.
2. The government requests that the Court identify the individual defendant, Bennett T. Martin, and ask whether any member of the jury panel, or any member of his or her immediate family, or close relative, has had any personal, employment, business or financial relationship with him.
3. The attorneys for the United States in this case are Richard T. Hamilton, Jr., Michael F. Wood and Kimberly A. Smith. Do you know any of these people or have you had any dealings of any kind with them? If so, please explain your answer.
4. The lawyers for the defendants in this case are: Richard Alan Anderson and Michael P. Gibson, of the law firm of Burleson, Pate & Gibson in Dallas, Texas. Has any member of this jury panel or any member of any juror's family ever had any personal, employment,

business or financial relationship with these lawyers or their law firm? If so, please explain your answer.

5. The government requests that the Court ask about the panel members' names, ages, addresses, employment and educational backgrounds and the names, ages and employment backgrounds of their spouses and children.

6. Do any of you, or does anyone in your family, have an illness or business problem or similar personal concern that would make it difficult for you to be attentive to the evidence?

7. Do any of you have any problem with your hearing or eyesight, or any other physical difficulty which would make it difficult for you to hear or see the evidence presented at trial?

8. Does anyone have personal knowledge of the facts of this case?

9. Have any of you heard anything on radio or television or read anything in the newspapers or other publications about this case? If so,

(a) Without telling us what you heard or read, because of what you have heard or read, have you formed any opinion whatsoever regarding the guilt or innocence of the defendants?

(b) Would what you have read or heard make it difficult for you to render a fair and impartial verdict based solely upon the evidence presented at trial?

10. Have any of you ever been involved in any conflict or dispute with the State or federal government, including the Internal Revenue Service? If so,

(a) What was the nature of that difficulty or dispute?

- (b) Do you believe that despite this, you can still judge the merits of this case objectively and impartially?

11. Have any of you, or a relative, close friend or employer, ever been the subject of an investigation by any governmental body, whether it was an IRS audit, a criminal investigation, an employment security check or any other type of governmental investigation? If so,

- (a) What was the nature of the investigation?
- (b) Would anything in this experience affect your ability to reach a fair and impartial verdict in this case?

12. Does any juror feel that he or she has any bias or preference for or against the federal government in this case because of the nature of the charges in the Indictment or otherwise? If so, please explain your answer.

13. Does any juror feel that he or she has any bias or preference for or against the defendants in this case because of the nature of the charges in the Indictment or otherwise? If so, please explain your answer.

14. Has any member of this jury panel, or any member of his or her immediate family, or close relative ever worked for or had any business or financial relationship with, or dealt in any way with Martin News Agency, Inc.? Trinity News Agency? Periodical Management Group, also called PMG? C&S News Agency, Inc.? ETD-KroMar? Jack Martin News Agency? Cochran News Agency, Inc.? Anderson News? The News Group? ETD? Has any member of this jury panel, or any member of his immediate family, or close relative ever worked in any part of the magazine or book industry? If so,

- (a) Please state the company's name, and the nature and time of employment.

- (b) How, if at all, would that relationship influence your judgment in this case if you were selected as a juror?
- (c) Would this relationship in any way impair your ability to listen to the evidence brought out in this courtroom objectively and decide this case solely upon the evidence that you hear and the instructions the Court will give the jury?

15. Do any of you know Bennett T. Martin, or any member of the Martin family?

If so,

- (a) Who do you know?
- (b) What is the nature of your relationship with that person?
- (c) Would your relationship with that person influence your decision in this case?

16. Does any member of the jury panel have any feeling of any kind, favorable or unfavorable, about the magazine distribution industry, or about the defendants, that might influence you in any way as a juror, either for or against the defendants? If so, please explain your answer.

17. Does any member of this jury panel or any member of his or her immediate family or friends have any personal interest in the outcome of this case? If so, please explain your answer.

18. Do any of you have positions or employment that cause you to prepare, submit or receive bids, or to solicit or select suppliers? If so, please explain your answer.

19. Have any of you ever heard the term market allocation. If so, what do you understand that term to mean?
20. Have any of you ever heard the term territorial or customer allocation? If so, what do you understand that term to mean?
21. Have any of you ever heard the term price fixing or bid rigging? Does anyone believe it is okay for two or more persons to fix prices or rig bids? If so, please explain your answer.
22. Does anyone believe competitors ought to be allowed to fix prices or rig bids? If so, please explain your answer.
23. Does anyone believe competitors ought to be allowed to allocate, or divide up, territories or markets among themselves? If so, please explain your answer.
24. Does anyone believe competitors ought to be allowed to allocate, or divide up, customers among themselves? If so, please explain your answer.
25. When you shop for goods, what is important to you? Is price important? Explain. Is service important? If so, please explain your answer.
26. When you shop for goods, does anyone not try to get the best quality at the lowest price? If so, please explain your answer.
27. Is there anyone who does not believe that consumers should be able to choose which store they buy from?
28. Have any of you ever heard of the Sherman Act? It is the federal law that governs the way competitors must act. Does everyone believe that the way competitors act should be regulated?

29. Do any of you believe it is possible for two or more companies to allocate, or divide-up, territories or customers in a market? If so, do you believe that the government has the responsibility to correct that situation?

30. Do any of you have any objection to enforcement of the federal antitrust laws that make it illegal for two or more competitors to allocate, or divide-up territories or customers in a market? If so, please explain your answer.

(a) Does everyone believe that if competitors allocate, or divide-up territories or customers, that would cause some harm to their customers or consumers?

(b) Is there anyone who does not believe it is important to have laws regulating the conduct of competitors and business?

31. The United States has pursued some well-publicized antitrust cases in the past few years. Does anyone have any opinion on whether it was a good or a bad idea for the United States to pursue the Microsoft case? If so,

(a) Would your thoughts about the Microsoft case affect your ability to listen objectively to the evidence and render a decision based solely on the facts in this case and the judge's instructions?

(b) Is anyone familiar with the American Airlines lawsuit involving the Dallas/Ft. Worth airport, or any other antitrust cases?

(c) Do you have any opinions on whether it was a good or a bad idea for the United States to pursue any of these cases?

(d) Would your thoughts about any antitrust case affect your ability to listen objectively to the evidence and render a decision based solely on the facts in this case and the judge's instructions?

32. Have any of you, or any person or business organization with which you are or have been connected, ever been involved in an antitrust investigation or lawsuit? Do any of you have any experience with, or expertise in, the antitrust laws? If so, please describe your involvement with the antitrust matter and the outcome, or your experience with the antitrust laws, or both.

33. Do any of you believe that it is improper for the government to grant immunity from prosecution to certain persons to obtain their testimony against another person who is charged with a criminal offense?

34. Would any of you tend to disbelieve a witness solely because the government gave the witness immunity in exchange for the witness's cooperation and testimony against others? If so, please explain your answer.

35. The government sometimes enters into plea agreements with defendants where, in return for their cooperation with an investigation, the government agrees not to bring certain charges against them. This is especially so in conspiracy cases, like the Sherman Act, where the competitors intended the agreement to be secret. Do any of you have a feeling, favorable or unfavorable, about this practice?

36. The prosecution will not be trying all of the people who committed the crime along with the defendants in this case. Will that fact cause any of you to think that the government or prosecution is unfair or cause you to favor the defendants? If so, please explain your answer.

37. Does any member of the jury panel have a feeling of any kind, favorable or unfavorable, about a person who would testify against people with whom he or she once worked or was associated? If so, please explain your answer.

38. Have any of you, or your family members, or your close friends ever been the victim of a crime? If so, please describe the crime and say if there was an arrest and if the case was prosecuted.

39. Have any of you, or any member of your family, or a close friend ever been arrested or been a defendant in a criminal case other than a minor traffic violation? If so, what were the charges and what was the outcome of the proceedings?

40. Have you or has any member of your immediate family ever been involved in a lawsuit as a party or as a witness? If so, please describe the nature of the lawsuit and your involvement.

41. Have you ever had any previous jury service, including grand jury service, testified before a grand jury, or been a witness in a criminal case? If so,

(a) Please describe briefly the nature of the testimony or service, the nature of the case, and if a verdict was reached in the case.

(b) Would anything in this experience affect your ability to reach a fair and impartial verdict in this case?

42. Has any member of this panel or a member of his or her family been contacted or questioned by any person other than officials from the Office of the Clerk of this Court about your being called for jury duty? If so, please describe these contacts.

43. Does any member of this panel know of any contacts or inquiries made to other persons such as neighbors, employers, co-workers, or business associates about your being called for jury duty? If so, what was the nature of the contacts or inquiries and how did you learn of them?

44. Have any of you ever attended law school or taken any law courses in college? Have any of you ever worked in a law office or for a court? If so, if you disagree with the Court's instructions in this case, based on this experience or training, can you set aside such disagreement and follow the instructions the Court will give?

45. Do any of you feel that you would have any reluctance or hesitancy about finding the defendants guilty if the evidence justifies it? If so, please explain your answer.

46. Do any of you have any moral or religious convictions that might make it difficult for you to pass judgement on a fellow human being?

47. A corporation can only act through its individual officers, directors, employees, or agents. Do any of you have any moral or philosophical problems with judging a corporation separately from its officers and owners in a criminal case? Do any of you have a problem with judging whether a corporation is guilty of a crime?

48. Is there any one who cannot set aside sympathy or other considerations in reaching a just verdict? If so, please explain your answer.

49. Will any of you have difficulty following the Court's instructions if those instructions do not agree with your notions of what the law should be? In other words, can you set aside your opinions of what the law perhaps should be and base your verdict on the law as given to you by me? If you feel you might be unable to follow my instructions, please say so.

Respectfully Submitted,

SCOTT M. WATSON
Chief, Cleveland Field Office

“/s/”
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent via Federal Express to the Office of the Clerk of Court on this 21st day of June, 2001. In addition, copies of the above-captioned pleading were served upon the defendants via Federal Express on this 21st day of June, 2001.

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“/s/”
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